



## **AGENDA**

**BRYAN PLANNING AND ZONING COMMISSION  
REGULAR MEETING  
THURSDAY, JULY 19, 2007  
AT 6:00 P.M.  
COUNCIL CHAMBERS, BRYAN MUNICIPAL BUILDING  
300 SOUTH TEXAS AVENUE, BRYAN, TEXAS**

**Disclaimer:**     *The meeting minutes herein are a summarization of meeting proceedings, not a verbatim transcription.*

### **1. CALL TO ORDER**

Chairperson Hughes called the regular meeting to order at 6:13 p.m.

Commission members present were: Mr. Johnny Bond, Mr. Ralph Davila, Mr. Robert Horton, Mr. Art Hughes (Chairperson), Mr. Don Maxwell (Parliamentarian) and Mr. Michael Parks.

Commission members absent were: Mr. Michael Beckendorf, Mr. John Clark (Vice Chairperson) and Mr. G.H. Jones.

Staff members present were: Mr. Kevin Russell, Director of Development Services; Ms. Lindsey Guindi, Planning Manager; Ms. Julie Fulgham, Staff Planner; Mr. Randy Haynes, Staff Planner; Mr. Martin Zimmermann, Senior Planner; Mr. Samuel Aguirre, Assistant City Attorney; and Mr. Rodney Schmidt, Executive Management Intern.

### **2. HEAR CITIZENS**

No one came forward.

### **3. RECOGNITION OF AFFIDAVITS FILED IN RESPONSE TO STATE LAW ON DISCLOSURE OF LOCAL OFFICIAL'S CONFLICT OF INTEREST**

No affidavits were filed.

### **4. CONSENT AGENDA (Items may be removed at the request of two Commission members.)**

#### **A. Approval of minutes from the workshop and regular meetings on July 5, 2007.**

**B. CONSIDERATION – Easement Release ER07-01**

**R. Haynes**

*A request to release an approximate 16-foot wide and 200-foot long storm sewer easement across Lots 16, 17 and 18 of Block 28 in the Phillips Addition, Bryan, Brazos County, Texas.*

**C. CONSIDERATION – Alley Closing AC07-03**

**J. Fulgham**

*A proposed alley closing for the entire 20-foot wide alley right-of-way in Block 27 of the Bryan Original Townsite bounded by Washington and Texas Avenues, East William Joel Bryan Parkway and East 24<sup>th</sup> Street in downtown Bryan, Brazos County, Texas.*

**D. CONSIDERATION – Final Plat FP07-18**

**M. Zimmermann**

*A proposed Final Plat of Park Hudson Subdivision – Phase 7 consisting of 4.665 acres of land located at the northwest corner of University Drive East (F.M. 60) and Coppercrest Drive in Bryan, Brazos County, Texas.*

**Commissioner Parks moved to approve the Consent Agenda. Commissioner Maxwell seconded the motion.**

Chairperson Hughes asked if there was any discussion on the Commission.

There was none.

**The motion passed with a unanimous vote.**

**REQUESTS FOR APPROVAL OF CONDITIONAL USE PERMITS (Commission has final approval; appeals may be directed to City Council.)**

**5. PUBLIC HEARING/CONSIDERATION – Conditional Use Permit CU07-05**

**J. Fulgham**

*A request for approval of a Conditional Use Permit to allow a residential dwelling in a Commercial (C-3) zoning district located at 2714 Todd Street / 2713 South Texas Avenue, Lot 7 in Block 15 of the Mitchell-Lawrence-Cavitt Subdivision in Bryan, Brazos County, Texas.*

Ms. Julie Fulgham, Staff Planner, presented a staff report (on file in the Development Services Department). Ms. Fulgham stated that the applicant is requesting approval of a Conditional Use Permit to allow the conversion of a storage shed to a residential dwelling on his property at 2714 Todd Drive. The proposed residential dwelling is planned to encompass 448 square feet of floor area. The subject property is a commercial site surrounded by both commercial and residential uses. Staff recommends approving the request contending that few (if any) any adverse impacts will result from the construction of the proposed residential dwelling unit and that proposed residential use will be appropriate in this particular environment where residential and commercial uses are co-exist within close proximity to each other.

The public hearing was opened.

Mr. Tim Stuart, 2714 Todd Street, Bryan, Texas, applicant, came forward came forward to speak in favor of the request. He stated that the structure in question is not a manufactured home.

The public hearing was closed.

**Commissioner Maxwell moved to approve Conditional Use Permit CU07-05, as requested, accepting the findings of staff. Commissioner Horton seconded the motion.**

Chairperson Hughes asked if there was any discussion on the Commission.

Commissioner Parks asked if the applicant would need a new conditional use permit if a new home were to be built on the same piece of property at some point in the future. Ms. Fulgham explained that the applicant would then be required to seek approval of a new conditional use permit.

**The motion passed with a unanimous vote.**

- 6. PUBLIC HEARING/CONSIDERATION – Conditional Use Permit CU07-09 J. Fulgham**  
*A request for approval of a Conditional Use Permit to allow the conversion of a garage to an accessory dwelling unit in a Residential District – 5000 (RD-5) located at 418 Tee Drive, and specifically being part of Lot 16 and all of Lot 17 in Block C of the Country Club Estates Subdivision - Phase 2 in Bryan, Brazos County, Texas.*

Ms. Julie Fulgham, Staff Planner, presented a staff report (on file in the Development Services Department). She stated that the applicant is requesting approval of a Conditional Use Permit, to allow for the conversion of a garage into an accessory dwelling unit for recreational purposes. The proposed accessory dwelling unit is planned to encompass approximately 493 square feet of floor area. The subject property is located in a single-family residential area. Staff recommends denying this request contending that the proposed accessory dwelling unit use is not compatible with existing residential uses abutting the subject property. The Comprehensive Plan promotes protecting neighborhood integrity; staff believes allowing this proposed accessory dwelling unit will be detrimental to this existing, well-established neighborhood. Allowing this accessory dwelling unit helps create a multi-family environment and infrastructure in a single-family residential neighborhood.

The public hearing was opened.

Mr. Clint Schlinke, 1004 Val Verde, College Station, Texas, came forward to speak in favor of the request. He stated that the homeowner does not want to use the improved garage as a separate residence. He simply wants to use it as a recreational area when he comes into town for Texas A&M sporting events. He also stated that the homeowner wants to add a kitchen and a bathroom to the garage area which he would be willing to remove if he were to sell the property.

The public hearing was closed.

**Commissioner Davila moved to deny Conditional Use Permit CU07-09, accepting the findings of staff. Commissioner Parks seconded the motion.**

Chairperson Hughes asked if there was any discussion on the Commission.

Commissioner Parks commented that he is worried about the safety of vehicles backing out of the driveway of the subject property.

**The motion passed with a unanimous vote.**

## REQUESTS FOR APPROVAL OF RESUBDIVISION

### 7. PUBLIC HEARING/CONSIDERATION – Replat RP07-12

**J. Fulgham**

*A request to replat Lot 12 in Block 5 of Woodville Acres Subdivision, Phase 3 and consisting of 0.46 acres of land into two new lots, being Lots 12A and 12B in Block 5 of the Woodville Acres Subdivision, Phase 3 in Bryan, Brazos County, Texas.*

Ms. Julie Fulgham, Staff Planner, presented a staff report (on file in the Development Services Department). She stated that this is a proposed replat of Lot 12 in Woodville Acres Subdivision, into two new lots (12A and 12B), each of which is planned to be a residential home site. She stated that the Site Development Review Committee and Staff recommend approving this proposed replat.

The public hearing was opened.

Mr. Kenny Crenshaw, 3719 Shirley Drive, Bryan, Texas, came forward to speak in opposition to this request. He stated that the lots were too small for the addition of more houses.

Roxanne McCoy, 2001 Dimrill Dale, Bryan, Texas came forward to speak in favor of the request. She stated that she wants to divide the property to allow her elderly grandmother a place to live.

The public hearing was closed.

**Commissioner Maxwell moved to approve Replat RP07-12, as requested. Commissioner Bond seconded the motion.**

Chairperson Hughes asked if there was any discussion on the Commission.

Commissioner Parks asked if the replat can go forward if the applicant's property is a Special Flood Hazard Area. Ms. Fulgham stated that the proposed replat had been reviewed and approved by engineering and building services staff.

**The motion passed with a unanimous vote.**

### 8. PUBLIC HEARING/CONSIDERATION – Replat RP07-19

**J. Fulgham**

*A request to replat Lots 1R and 2R of Woodville Acres Subdivision, Phase 3 and consisting of 1.961 acres of land into a single lot, being Lot 2AR in Block 14 of the Woodville Acres Subdivision, Phase 3 in Bryan, Brazos County, Texas.*

Ms. Julie Fulgham, Staff Planner, presented a staff report (on file in the Development Services Department). She stated that this is a resubdivision of existing Lots 1R and 2R into one new lot (Lot 2AR), which is planned to be a commercial building site. She also stated that the Site Development Review Committee and Staff recommend approving this proposed replat.

The public hearing was opened.

No one came forward.

The public hearing was closed.

**Commissioner Bond moved to approve Replat RP07-19, as requested. Commissioner Parks seconded the motion.**

Chairperson Hughes asked if there was any discussion on the Commission.

There was none.

**The motion passed with a unanimous vote.**

**REQUESTS FOR APPROVAL OF REZONING (Commission makes recommendation; City Council has final approval.)**

**9. PUBLIC HEARING/CONSIDERATION – Rezoning RZ07-30**

**R. Haynes**

*A request to change the zoning classification from Mixed Use Residential District (MU-1) to a combination of Commercial District (C-3) and Industrial District (I) for 9.15 acres of land adjacent to the southeast corner of Tabor Road and Clarks Lane in parts of Blocks 1 and 2 in the Lone Oak Acres Subdivision in Bryan, Brazos County, Texas.*

Mr. Randy Haynes, Staff Planner, presented a staff report (on file in the Development Services Department). Staff recommends approving this request contending that the proposed combination of C-3 and Industrial zoning is generally appropriate in the particular environment in which the subject property is located.

*Commissioner Horton left at 6:45 p.m. with a quorum still being present.*

The public hearing was opened.

Mr. Roy Wiese, 3800 Tabor Road, Bryan, Texas came forward to speak in opposition to the rezoning. He is worried that rezoning to Commercial could lead to an unwanted development near his property. Mr. Haynes commented that Mr. Wiese's property is located outside the city limits of Bryan.

The public hearing was closed.

**Commissioner Parks moved to recommend approval of Rezoning RZ 07-30, as requested, accepting the findings of staff. Commissioner Davila seconded the motion.**

Chairperson Hughes asked if there was any discussion on the Commission.

There was none.

**The motion passed with a unanimous vote.**

**10. PUBLIC HEARING/CONSIDERATION – Rezoning RZ07-32**

**M. Zimmermann**

*A request to change the zoning classification from Commercial District (C-3) to a Planned Development (PD) District allowing commercial uses and open/outside storage of merchandise and material on 5.67 acres of land adjoining the southwest side of North Earl Rudder Freeway, approximately 1300-1700 feet south from its intersection with State Highway 21, being Lot 1 in Block 1 of the Cedar Hill Subdivision in Bryan, Brazos County, Texas.*

Mr. Martin Zimmerman, Senior Planner, presented a staff report (on file in the Development Services Department). Mr. Zimmermann stated that the applicants are in the process of purchasing the densely wooded subject property. They desire to operate a wholesale granite and marble supply business on these 5.67 acres. The requested rezoning would allow commercial uses and outside storage of merchandise and material. If approved, basically the same standards that currently apply to this property under its Commercial (C-3) zoning would still apply, with the following exceptions and additions: (1.) outside storage will be allowed in the designated "open material storage and display area" (open storage is generally only allowed in Industrial Districts of Bryan); (2.) a 40-foot wide buffer area will be allowed adjacent to a residential zoning district (where ordinary standards require a 75-foot or reduced 45-foot wide buffer with additional landscaping); and (3.) no privacy fence will be required where this property adjoins a residential zoning district (where ordinary standards require installation of a minimum 6-foot high opaque privacy fence). In addition, a 20-foot wide "display sculpture garden" is proposed along the front property line adjacent to the highway frontage road.

Staff recommends approval of the proposed Planned Development District. Staff believes that the range of permitted (and potentially permitted) uses on this property will generally be compatible with existing and anticipated uses surrounding this property, so long as the proposed buffer areas depicted on the proposed development plan are continuously maintained. Staff contends that the proposed preservation of existing vegetation and landscape conditions in buffer areas around the margin of this site combined with proposed screening will be sufficient to completely block the proposed storage area from view outside this site and provide additional privacy and protection to adjacent residential uses from any nonresidential use on this site.

The public hearing was opened.

Mr. Stewart Kling, 1616 Woodland Drive, Bryan, Texas came forward to speak in favor of the rezoning. He stated that it is in the applicant's best interest to maintain their sculpture display area. He also informed the Commission that he had spoken with the fence building company and they have stated that they can build the privacy fence without destroying the vegetation bordering the property.

Mr. Martin Arredondo, 1503 North Earl Rudder Freeway, Bryan, Texas came forward and asked if the city was planning on building a street near his property. Mr. Zimmermann advised that there is no new street proposed.

Ms. Rhoda Lee-Schoellman, 1501 North Earl Rudder Freeway, Bryan, Texas came forward and asked how much public access to the proposed development. Mr. Zimmermann explained that the only access to the property will be off the frontage road. She then asked if there would be any barrier around the property. Martin Zimmermann advised that there would be a 20 to 40-foot wide buffer area around the margin of this site.

Mr. Hank McQuaide, 12939 State Highway 30, Bryan, Texas came forward to speak in favor of the request. He stated that the grade separation off the frontage road would likely block the sight of the outdoor storage area.

The public hearing was closed.

**Commissioner Davila moved to recommend approval of RZ07-32, accepting the findings of staff, subject to the requirement that the applicant be required to submit a design for the sculpture display area, as recommended by staff, and that a minimum 8-foot high privacy fence**

**shall be required along the northwestern side property line where the subject property adjoins property in a residential zoning district. Commissioner Maxwell seconded the motion.**

Chairperson Hughes asked if there was any discussion on the Commission.

Commissioner Parks commented the privacy fence would be a stand alone feature.

Commissioner Davila stated that he wanted more privacy for the abutting residential area.

**The motion passed with a unanimous vote.**

**REQUESTS FOR APPROVAL OF VARIANCES (Commission has final approval; appeals may be directed to City Council.)**

**11. PUBLIC HEARING/CONSIDERATION – Planning Variance PV07-34**

**R. Haynes**

*A request for approval of a variance from the minimum 150-foot width required of lots in Agricultural-Open (A-O) zoning districts, to create three new lots, one of which would be only 100 feet wide, on property at 2307 Tabor Road, being 5.16 acres out of Stephen F. Austin Survey, A-63 in Bryan, Brazos County, Texas.*

Mr. Randy Haynes, Staff Planner, presented a staff report (on file in the Development Services Department). Mr. Haynes stated that applicants have purchased a home on a 5.25 acre un-platted tract at 2307 Tabor Road. Their intention is to occupy the existing residence and place two manufactured homes on the tract for the use by other family members. To accomplish this, the tract must be platted in order to provide a separate lot for each dwelling. Staff recommends approving this request because the lack of width for Lot 3 is mitigated by the overall size of the proposed lot and the resulting residential density made possible by the reduction of the lot width standard will have no foreseeable affects upon abutting properties. Staff contends that the public benefit from continued compliance with minimum lot width standards in this particular circumstance is not greater than allowing the applicants to plat and develop this vacant acreage into an additional home site.

The public hearing was opened.

Mr. Floyd Stanford, 2307 Tabor Road, Bryan, Texas came forward and stated that he wants to subdivide his property to move his family in.

Mr. Dan Roberts, 2308 Tabor Road, Bryan, Texas came forward and stated that he is not opposed to the variance request.

The public hearing was closed.

**Commissioner Bond moved to approve Planning Variance PV07-34, as requested, accepting the findings of staff. Commissioner Davila seconded the motion.**

Chairperson Hughes asked if there was any discussion on the Commission.

There was none.

**The motion passed with a unanimous vote.**

## 12. PUBLIC HEARING/CONSIDERATION – Planning Variance PV07-21

**R. Haynes**

*A request for approval of a 14-foot variance from the minimum 25-foot front building setback generally required on lots in residential zoning districts, to legitimize previous installation of a garage that extends within 11 feet from the front property line on the subject property at 1906 Marshall Avenue, occupying Lot 14 of Block 6 in the Milton Darwin's Subdivision in Bryan, Brazos County, Texas.*

Mr. Randy Haynes, Staff Planner, presented a staff report (on file in the Development Services Department). Mr. Haynes stated that as the result of a general complaint from a neighboring resident, the applicant was cited by the Code Enforcement Department for installing a garage in front of the existing single-family home, without building permits and without city site plan approval. This garage extends within 11 feet from this site's front property line along Marshall Avenue from which a minimum 25-foot building setback is required. The applicant is requesting a 14-foot variance from this standard, to legitimize previous construction of this garage. Staff recommends denying this request for variance because:

- Minimum front building setback standards are intended to help promote and preserve open space along street frontage. In this particular circumstance, staff believes that approving the requested variance will diminish open space available on this site.
- It will adversely affect the physical character of development on this lot and in the entire neighborhood
- The public benefit from continued compliance with minimum building setback standards, in this particular circumstance, is greater than requiring the owner/applicant to remove or modify the unlawfully constructed.

The public hearing was opened.

Mr. Jose Belen Contreras, 1906 Marshall Avenue, Bryan, Texas came forward to speak in favor of this request. Mr. Jerry Contreras translated for Jose Contreras. He stated that he is sorry for building the carport in the front setback and would be willing to make changes to the construction.

Responding to a question from Commissioner Parks, Mr. Contreras stated that the carport was built five years ago.

Responding to questions from Chairperson Hughes and Commissioner Davila, Mr. Contreras stated that he understood why there is a problem with the garage.

The public hearing was closed.

**Commissioner Maxwell moved to approve Planning Variance PV07-21 for the sole purpose of legitimizing the existing garage and that no further development to this structure shall take place and that if the structure is destroyed by an act of God or otherwise it shall not be rebuilt, finding that granting this variance**

- **will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area;**



- **will not be detrimental to the public health, safety or welfare, or materially injurious to properties abutting the subject property; and**
- **will impose upon the owner/applicant hardships and difficulties greater than the benefits to be derived by the general public through compliance with the requirements of this chapter.**

**Commissioner Parks seconded the motion.**

Chairperson Hughes asked if there was any discussion on the Commission.

Mr. Aguirre, Assistant City Attorney, urged the Commission to articulate specific facts upon which the findings to approve the variance are based.

Commissioner Bond stated that he did not feel that the variance would be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the area because the garage was in the setback. He stated that he did not feel that the variance would be detrimental to the public health, safety or welfare, or materially injurious to properties abutting the subject property because it is an improvement to the house and neighborhood. Finally he stated that the variance would impose upon the owner/applicant hardships and difficulties greater than the benefits to be derived by the general public through compliance with the requirements.

**Commissioner Parks moved to amend the original motion to reflect the following findings:**

- **That granting the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area because no one from the area was at the Commission meeting to object or complain about the structure; and**
- **That granting the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties abutting the subject property because other nearby properties are encroaching into the setbacks more than the subject property.**
- **That denying the variance would impose upon the owner/applicant hardships and difficulties greater than the benefits to be derived by the general public through compliance with the requirements because removing the structure would cost the owner a considerable amount of money and the benefit derived by the public from doing so would be minimal.**

**Commissioner Bond seconded the motion.**

Chairperson Hughes asked if there was any discussion on the Commission.

Chairperson Hughes commented that when someone is in violation of the law there should be a penalty. He also stated that he feels there is justification under all three criteria to approve this specific variance request.

**The motion to amend the original motion passed with a unanimous vote.**

The floor was opened for discussion of the amended motion.

Commissioner Maxwell stated that he wants a more modified ruling process that would allow the Commission a more flexible response.

Commissioner Davila stated that he thinks the publicity that these cases are getting is good for educating the public.

Commissioner Parks stated there needs to be more publicity and education on the permitting process.

Commissioner Bond stated that an ordinance change may be in order to help solve some of the problems faced by the Commission.

**The amended motion to approve the request passed with a unanimous vote.**

### **13. PUBLIC HEARING/CONSIDERATION – Planning Variance PV07-22**

**R. Haynes**

*A request for approval of a complete variance from the minimum 25-foot front building setback generally required on lots in residential zoning districts, to legitimize previous installation of a carport that extends all the way to the front property line on the subject property at 1908 Marshall Avenue, occupying Lot 13 of Block 6 in the Milton Darwin's Subdivision in Bryan, Brazos County, Texas.*

Mr. Randy Haynes, Staff Planner, presented a staff report (on file in the Development Services Department). Mr. Haynes explained that as the result of a general complaint by a neighbor, the applicant was cited by the Code Enforcement Department for installing a carport in front of the existing single-family home, without building permits and without city site plan approval. The carport extends at least all the way to the site's front property line along Marshall Avenue. The front supports of the carport appear to be in the public right-of-way. Lots in MU-1 zoning districts generally require a minimum 25-foot front building setback. The applicant is requesting a complete variance from this standard, to legitimize previous construction of this carport. Staff recommends denying this request for variance because:

- Minimum front building setback standards are intended to help promote and preserve open space along street frontage. In this particular circumstance, staff believes that approving the requested variance will diminish open space available on this site.
- It will adversely affect the physical character of development on this lot and in the entire neighborhood
- The public benefit from continued compliance with minimum building setback standards, in this particular circumstance, is greater than requiring the owner/applicant to remove or modify the unlawfully constructed.

The public hearing was opened.

Mr. Jerry and Erasmo Contreras, 1908 Marshall, Bryan, Texas came forward to speak in favor of the request. Jerry stated that the water meter is five feet from the carport corner post and thus is clearly not in the right-of-way.

The public hearing was closed.

Commissioner Parks moved to approve Planning Variance PV07-22, as requested, based on the following findings:

- That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area because the property has been there for the past 5 years without complaint and no one is at the Commission meeting to complain about the variance.
- That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties abutting the subject property because the abutting subject property also has a structure with a similar encroachment.
- That the hardships and difficulties imposed upon the owner/applicant are greater than the benefits to be derived by the general public through compliance with the requirements of this chapter because removing the carport would not allow the occupants cars to be shielded from the elements.

Commissioner Bond seconded the motion.

Chairperson Hughes asked if there was any discussion on the Commission.

Commissioner Maxwell moved to amend the original motion for approval by adding that the motion for approval is for the sole purpose of legitimizing the existing structure and that no additions or modifications can be made and that if the structure is destroyed it cannot be rebuilt. Commissioner Maxwell withdrew his motion.

Commissioner Maxwell moved to amend the original motion for approval by adding that the motion of approval is for the sole purpose of legitimizing the existing carport. Commissioner Davila seconded the motion.

Chairperson Hughes asked if there was any discussion on the Commission about the motion to amend the original motion.

There was none.

**The motion to amend the original motion to passed with a unanimous vote.**

Chairperson Hughes asked if there was any discussion on the Commission.

There was none.

**The amended motion to approve the request passed with a unanimous vote.**

#### **14. PUBLIC HEARING/CONSIDERATION – Planning Variance PV07-27**

**R. Haynes**

*A request for approval of a 6-foot variance from the minimum 25-foot front building setback generally required on lots in residential zoning districts, to legitimize previous construction of a porch addition set back 19 feet from the front property line at 816 Mitchell Street, occupying Lot 11*

*and parts of Lot 12 in Block 21 of the Mitchell-Lawrence-Cavitt Subdivision in Bryan, Brazos County, Texas.*

Mr. Randy Haynes, Staff Planner, presented a staff report (on file in the Development Services Department). Mr. Haynes stated that the applicant is requesting a 6-foot variance from the 25-foot building setback required on this property, to legitimize previous construction of a porch addition which is setback only 19 feet from the front property line. No building permit or plan review was obtained for the porch prior to construction. The property owner states in his application that he hired an independent contractor to build the addition and was told no permit was needed. The porch is unfinished and encroaches six feet into the front setback. Staff recommends denying this request for variance because:

- Minimum front building setback standards are intended to help promote and preserve open space along street frontage. In this particular circumstance, staff believes that approving the requested variance will diminish open space available on this site.
- It will adversely affect the physical character of development on this lot and in the entire neighborhood
- The public benefit from continued compliance with minimum building setback standards, in this particular circumstance, is greater than requiring the owner/applicant to remove or modify the unlawfully constructed.

The public hearing was opened.

No one came forward.

The public hearing was closed.

**Commissioner Davila moved to postpone consideration of Planning Variance PV07-27 until the Planning and Zoning Commission's regular meeting on August 16, 2007. Chairperson Hughes seconded the motion.**

Chairperson Hughes asked if there was any discussion on the Commission.

Commissioner Davila stated that he wants the full commission to be present for this case.

Commissioner Parks stated that the other applicants received answers to their cases and wants to see that this applicant gets an answer as well.

Commissioner Maxwell stated that during a future workshop meeting he would like to learn how to better take exceptions to staff's findings on cases.

**Commissioner Maxwell moved to suspend the rules.**

**Commissioner Davila withdrew his motion. Chairperson Hughes withdrew his second.**

The public hearing was reopened.

Ms. Maria Jaimes, 16 Mitchell Street, Bryan, Texas came forward to speak in favor of the request. She stated that she committed this error because she was unfamiliar with the permitting process.

Chairperson Hughes asked Maria Jaimes if she would rather that the Commission vote on the issue now or wait until the next meeting on August 16, 2007. The applicant stated that she would rather wait.

The public hearing was closed.

**Commissioner Davila moved to postpone consideration of Planning Variance PV07-27 until the Planning and Zoning Commission's regular meeting on August 16, 2007. Commissioner Maxwell seconded the motion.**

Chairperson Hughes asked if there was any discussion on the Commission.

Commissioner Bond stated that he would like to see action taken on this case tonight.

Commissioner Davila stated that he wants to hear the other Commissioner's feelings on this case.

**The motion passed with a vote of three (3) in favor and two (2) in opposition. Commissioners Bond and Parks cast the votes in opposition.**

#### **15. PUBLIC HEARING/CONSIDERATION – Planning Variance PV07-28 M. Zimmermann**

*A request for approval of a 2.5-foot variance from the minimum 7.5-foot side building setback generally required on lots in residential zoning districts, to legitimize previous installation of a carport that extends within 5 feet from the northeast side property line on property at 3906 Old Oaks Drive, occupying Lot 19 in Block 20 of The Oaks Addition – 5<sup>th</sup> Installment in Bryan, Brazos County, Texas.*

Mr. Martin Zimmermann, Senior Planner, presented a staff report (on file in the Development Services Department). Mr. Zimmermann stated that the subject property is located in the middle of an established residential neighborhood of southeastern Bryan, known as The Oaks Addition. The subject property is zoned Residential District – 5000 (RD-5). In May 2007, the applicant was cited by the City's Code Enforcement Department for constructing a carport on the subject property, without building permits and without city site plan approval. This carport is situated on a concrete slab and extends within 5 feet from northeast side property line, from which a minimum 7.5-foot setback for buildings, including carports, is required. The current owners purchased the subject property within the last 2 years. The carport was constructed earlier this year. The applicants are requesting a 2.5-foot variance from the minimum 7.5-foot side building setback generally required on lots abutting another property or alley in RD-5 zoning districts, to legitimize previous construction of this carport. Staff recommends denying this request for variance because:

- Minimum front building setback standards are intended to help promote and preserve open space along street frontage. In this particular circumstance, Staff believes that allowing such encroachments repeatedly in a particular district will lead to overcrowded lots, a gradual diminution in the value of neighborhood properties and an undesirable urban environment.
- Staff believes that allowing a structure to extend less than 7.5 feet to a side property line could undermine the intent and purpose of these standards. Continued enforcement of minimum

required building setbacks will provide a comfortable margin of desirable open space between residential structures located on separate lots in this neighborhood.

- Staff believes that the public benefit from continued compliance with minimum building setback standards, in this particular circumstance, is greater than requiring the owners/applicants to move or remove the unlawfully constructed carport. Enforcing the minimum required building setback, in this particular case, will provide a minimum degree of open space, a feature that homeowners generally desire in residential environments.

Mr. Zimmermann pointed out that there is opportunity to build a carport on this property in conformance with minimum building setback regulations.

Mr. Zimmermann distributed two letters that had been received from nearby property owners. The property owners indicated that they had “no problem with” and “no objections to” the carport.

The public hearing was opened.

Ms. Carmen Galvan, 3906 Old Oaks, Bryan, Texas, applicant came forward to speak in favor of the request. She stated that the contractor who built the carport only added a small portion of concrete to the existing driveway to give her more room to get into and out of her car. She stated that the previous owners converted the garage into an extra room and thus, the only place she has to put her car is under the carport.

The public hearing was closed.

**Commissioner Parks moved to approve Planning Variance PV07-28 to legitimize the existing carport, as requested, based on the following findings:**

- **That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area because the neighbors that have responded to staff’s public notification have all been in support of the carport.**
- **That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties abutting the subject property because it appears to be of sound construction.**
- **That the hardships and difficulties imposed upon the owner/applicant are greater than the benefits to be derived by the general public through compliance with the requirements of this chapter because it will detract from the current property value and it will increase the likelihood of vandalism to the owner’s vehicle.**

**Commissioner Maxwell seconded the motion.**

Chairperson Hughes asked if there was any discussion on the Commission.

Chairperson Hughes stated that he sure that the carport is actually encroaching into the setback.

**The motion passed with a unanimous vote.**

## 16. COMMISSION CONCERNS

Commissioner Maxwell mentioned that for the next workshop meeting he would like to learn how to better take exceptions to staff's findings on cases.

Commissioners Bond, Davila and Hughes thanked staff for their work.

Commissioner Parks stated that he wants to discuss land use issues just outside the city limits.

## 17. ADJOURN

Without objection, Chairperson Hughes adjourned the regular meeting at 9:44 p.m.

These minutes were reviewed and approved by the City of Bryan Planning and Zoning Commission on this the 2<sup>nd</sup> day of **August, 2007**.

---

Art Hughes, Chairperson  
Planning and Zoning Commission  
City of Bryan, Texas

---

Lindsey Guindi, Planning Manager and  
Secretary to the Planning and Zoning  
Commission